

## REMARKS

### I. THE SECTION 112 REJECTIONS

The Examiner objected to and rejected Claims 1-7 under 35 U.S.C. §112, ¶2 because these claims lacked specific connection limitations regarding the virtual private network located on the home network, and the presence of separate home agent and a security gateway connected to each other on the virtual private network, which is located on the home network. Claims 8 and 16 have also been amended to clarify these connections and the existence of separate home agent and security gateway components on the virtual private network located on the home network. For the foregoing reasons, it is respectfully requested that the objection and rejection to 35 U.S.C. §112, ¶2 should be withdrawn.

The Examiner objected to and rejected Claims 16-20 under 35 U.S.C. §112, ¶2 because Claim 16 lacked antecedent basis for the home agent being place on the home network. Claim 16 has been amended to clarify the fact that the virtual private network is located on the home network with the home agent, which means the home agent is located on both the virtual private network and the home network. For the foregoing reasons, it is respectfully requested that the objection and rejection to 35 U.S.C. §112, ¶2 should be withdrawn.

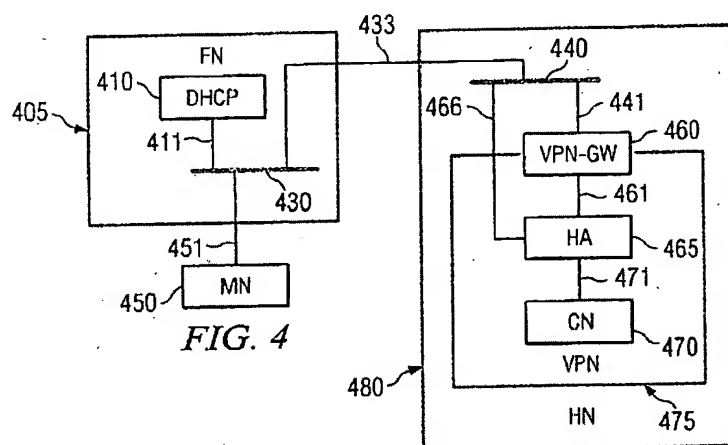
### II. THE EXAMINER'S REJECTIONS BASED ON *SJOSTRAND* REFERENCE

The Examiner has rejected all the claims based, in whole or in part, on the *Sjostrand* reference. To be specific, Claims 1, 3-7, 16, 18-20 were rejected under 35 U.S.C. §102(a) as being anticipated by *Sjostrand* ("Mobile IP and Virtual Private Networks Problem Statement"); Claims 2 and 17 were rejected under 35 U.S.C. §103(a)

as allegedly unpatentable over *Sjostrand* (“Mobile IP and Virtual Private Networks Problem Statement”); and, Claims 8-15 were rejected under 35 U.S.C. §103(a) as allegedly unpatentable over *Sjostrand* (“Mobile IP and Virtual Private Networks Problem Statement”) in view of Adrangi et al. (NPL “Problem Statement for Mobile IPv4 Traversal Across VPN Gateway”). If the use of the *Sjostrand* reference is found to be inappropriate, then the rejections of all the claims should overcome.

### 1. The Claimed Invention

The structure of the claimed invention is shown in Figures 4, as well as other figures in the application.



Using Claim 1 as an exemplary claim, the claimed invention includes a virtual private network located on a home network, and the virtual private network located on the home network has a security gateway and a home agent. The security gateway on the virtual private network is connected to the home agent, said security gateway having an inner tunnel address for routing packets within the virtual private network on the home network. And, the home agent on the home network transmits information packets to the security gateway using an inner tunnel address.

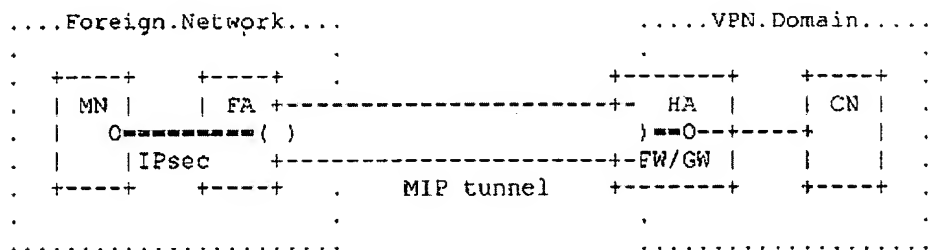
The claim also includes a mobile node is that is associated with and connected to a foreign network. The foreign network is connected to the home network so that information packets can be transmitted between the mobile node and the virtual private network on the home network.

It is readily apparent from the above description that the home agent and the security gateway are separate components that are located on the virtual private network located on the home network. Further, as explicitly claimed in Claim 16, the home agent is located on the virtual private network, and is not external to that virtual private network.

## 2. The *Sjostrand* Reference

First, the *Sjostrand* reference discloses a “Problem Statement,” but does not offer any solutions to the described problems. In the so-called, “simple flat-network” relied upon in the Examiner’s rejection, the gateway and the home agent are not separate device components on the VPN Domain. This is shown in the Figure from *Sjostrand* found below.

In the case where the Mobile Node is registered with a Foreign Agent the foreign agent encapsulates the traffic in a MIP tunnel. The combined Home agent and VPN Gateway decapsulates and decrypts and also performs firewalling.



The *Sjostrand* reference also explicitly states that the “simple flat-network” described above does not possess separate Mobile IP home agent and VPN gateway

components.

The scenarios in the previous section all had the Mobile IP and VPN functionality placed in the same network devices. There are deployment cases when the Mobile IP and VPN functionality has to be placed on different network devices, for instance:

- \* The product that offers the Mobile IP home agent functionality doesn't offer VPN gateway functionality but has to be complemented with another network device offering the VPN gateway functionality.

The *Sjostrand* reference, in fact, describes Problem 1 as arising from “[s]eparating the Mobile IP home agent and the VPN agent in separate network devices” as follows:

Problem 1 : Separating the Mobile IP home agent and the VPN agent in separate network devices introduces a router hop between the home agent and the home network. Mobile IP according to [RFC3220] does not allow this.

This problem statement in *Sjostrand* arises from the use of separate network components for the home agent and the security gateway. It should be emphasized that the “simple flat-network” shown in the *Sjostrand* reference does not show the separate home agent and VPN security gateway components as claimed, the *Sjostrand* indicates that there are significant problems encountered when separate home agent and VPN security gateway components are used as claimed, and the *Sjostrand* reference does not provide any solution or resolution of the stated problem encountered when separate home agent and VPN security gateway components are used as claimed.

### **3. The Examiner's Rejection**

The Examiner contends that the *Sjostrand* reference shows all the claimed structures, components and connections, but the Examiner's rejection fails to identify where in the *Sjostrand* reference separate home agent and VPN security gateway

components are shown as claimed or where information packets are transmitted between the separate home agent and VPN security gateway components as claimed. The absence of any identification of the separate home agent and VPN security gateway components as claimed is explained by the fact that *Sjostrand* does not show such separate components. In fact, the *Sjostrand* reference indicates that “Problem 1” arises when separate home agent and VPN security gateway components are used as claimed, and the *Sjostrand* reference fails to provide any type of solution to this “Problem 1.”

The existence of separate home agent and VPN security gateway components as claimed is important to the claimed invention because the home agent uses the inner tunneling address for the VPN gateway to direct packets to the gateway inside the virtual private network. The Examiner’s rejection fails to identify anywhere in *Sjostrand* where these significant claimed components, and their interactions with each other and other network components, are disclosed, taught or suggested.

Under 35 U.S.C. §102, the prior art must disclose each and every claim element for an invention to be anticipated by prior art. *Constant v. Advanced Minor-Devices, Inc.*, 848 F. 2d 1560 (Fed. Cir. 1988). All claim limitations of the invention must also be considered in determining patentability. *Hewlett-Packard Co. v. Bausch & Lomb, Inc.*, 909 F. 2d 1464 (Fed. Cir. 1990). Almost is not enough; the prior art must disclose all the elements. *Connell v. Sears, Roebuck & Co.*, 722 F. 2d 1542 (Fed. Cir. 1983). Accordingly, the absence of these significant claimed elements negates anticipation under 35 U.S.C. §102.

The present invention is a much different configuration than is shown in the *Sjostrand* reference, which is the Examiner’s primary reference and which explicitly

indicates that problems would be encountered by using separate home agent and VPN security gateway components as claimed. Art cited as support for a §103 rejection must be considered as a whole for what it teaches, and art that cannot be combined (after being considered for all that it teaches) cannot be used to support a 103 rejection, either by itself or in combination with other references. *In re Fine*, 837 F.2d 1071 (Fed. Cir. 1988) (one cannot use hindsight reconstruction to pick and choose among isolated disclosures in the prior art to deprecate the claimed invention); *Rockwell Int'l Corp. v. United States*, 147 F.3d 1358 (Fed. Cir. 1998).

It is fair to characterize *Sjostrand* as actually indicating that there are problems that would be encountered in the claimed invention, and because no solution is offered to these problems in *Sjostrand*, therefore, that reference actually teaches away from the claimed invention. References that teach away from the claimed invention cannot support a 103 rejection. *Bausch & Lomb, Inc. v. Barnes-Hind/Hydrocurve, Inc.*, 796 F.2d 443 (Fed. Cir. 1986). Because *Sjostrand* actually teaches away from the claimed invention and provides a “problem statement” for operating the invention as set forth in the claims, it would be improper to base a 103 rejection on this reference.

In view of the above, it is believed that Claims 1-20, as amended, are now in condition for allowance. Reconsideration of these claims and an immediate allowance is respectfully requested.

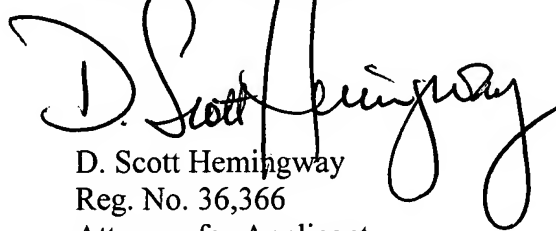
### **III. CONCLUSION**

The independent claims are allowable because the cited references fail to disclose, teach, or suggest essential claim elements. Since the dependent claims add further limitations to the allowable independent claims, the Applicant believe the

dependent claims are likewise allowable. Accordingly, pending claims 1-20 are believed allowable because the claimed invention is not disclosed, taught, or suggested by the cited references.

A one month extension of time to respond is requested. The one month extension fee is enclosed herewith. It is believed that no additional fees are necessary for this filing. If additional fees are required for filing this response, then the appropriate fees should be deducted from Deposit Account No. 14-1350.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "D. Scott Hemingway", is written over the typed name and title.

D. Scott Hemingway  
Reg. No. 36,366  
Attorney for Applicant

Hemingway & Hansen, LLP  
Comerica Bank Tower, Suite 2500  
1717 Main Street  
Dallas, Texas 75201  
(214) 292-8301 (voice)  
(214) 739-5209 (fax)